IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8282 of 2005
With
CIVIL APPLICATION No. 5275 of 2005
In
SPECIAL CIVIL APPLICATION No. 8282 of 2005
With
CIVIL APPLICATION No. 9745 of 2005
In
SPECIAL CIVIL APPLICATION No. 8282 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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CHANDRESHBHAI RUGNATHBHAI GADHIA - Petitioner(s)
Versus
STATE OF GUJRAT & 6 - Respondent(s)

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Appearance :
MS AVANI S MEHTA for Petitioner(s) : 1,
MS SANGITA VISHAN, AGP, for Respondent(s) : 1, 3
RULE SERVED for Respondent(s) : 6 & 7,
RULE NOT RECD BACK for Respondent(s) : 2,
MR PREMAL R JOSHI for Respondent(s) : 4,
MR BS PATEL for Respondent(s) : 5,
MRS RANJAN B PATEL for Respondent(s) : 5,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 19/01/2006

ORAL JUDGMENT

1.In the present petition, the petitioner has challenged the order dated 8.4.2005 passed by the Administrator of Gondal Nagarpalika by which one Shri Kishorebhai Chhaganbhai Andipara, respondent No.5, herein was to be appointed as member of the Gondal Agricultural Produce Market Committee under the provisions of section 11(1)(iv) of the Gujarat Agriculture Produce Market Act (hereinafter to be referred to as “the said Act”). The petitioner has also challenged the consequential notification dated 21.4.2005 issued by the Director of Agricultural Marketing and Rural Finance, Gujarat, respondent No.3 herein.

2.Short facts leading to the present petition need to be noted, at this stage.

2.1The petitioner herein is a resident of Gondal town. He claims to be eligible for being nominated as member of the Gondal Agricultural Produce Market Committee as representative of the Gondal Municipality in terms of the provisions contained in section 11(1)(iv) of the said Act. It is the case of the petitioner that besides him, there are several other eligible persons who were also willing to be so nominated. It is the

case of the petitioner that without considering any other person, respondent No.4 herein decided to nominate respondent No.5 as Member of the Agricultural Produce Market Committee, Gondal.

2.2The case of the petitioner is that the appointment of respondent No.5 is based only on political considerations; that respondent No.5 was selected by the Hon'ble Minister for Cooperation, who is joined in personal capacity as respondent No.2 in the present petition, for the sole purpose of favouring a certain candidate at the ensuing election for the post of Chairman of the Market Committee.

2.3The petitioner has stated in the petition and about which there is no serious dispute, that respondent No.7 herein Shri Jayantilal Savjibhai Dhol was elected as Chairman in the first meeting of the Market Committee held on 18th February 2003. Respondent No.7 is facing a criminal complaint involving offence under section 302 of the Indian Penal Code and he is detained in Jail. Vice-Chairman was therefore discharging the duties as Chairman. The term of the Chairman and Vice-Chairman being for a period of two years was over on 17th February 2005. The authorities were, therefore, required to hold election at the earliest. However,

despite initially convening a meeting to elect a new Chairman and Vice-Chairman on 4th March 2005, the same was cancelled on a flimsy ground that the authority concerned was required to meet the learned Additional Advocate General in connection with some litigation. It is, therefore, the case of the petitioner that the election for the post of Chairman and Vice-Chairman was being unduly delayed with oblique motive. In the meantime, the term of the Gondal Municipality, which is the local authority within whose jurisdiction the principal Market Yard is functioning came to an end and for want of a newly elected body, Administrator was appointed. On account of the expiry of the term of the elected body of the Gondal Municipality, one Shri Madhabhai Babubhai Kotadia who was nominated as member to the Market Committee by the local authority ceased to hold the said position.

2.4Fresh election agenda for holding election for the post of Chairman and Vice-Chairman of the Agricultural Produce Market Committee, Gondal was issued on 19.4.2005 and the election was to be held on 29.4.2005. It is the case of the petitioner that to influence the ultimate outcome of the election for the post of Chairman and Vice-Chairman, respondent No.5 was sought

to be inducted as Member of the Agricultural Produce Market Committee by nomination under section 11(1)(iv) of the said Act. It is the case of the petitioner that respondent No.4 decided to nominate respondent No.5 as Member upon the directives of the Hon'ble Minister, i.e. Respondent No.2 herein. The petitioner has stated to the effect that while taking decision to nominate respondent No.5 as Member of the Committee, the Administrator of Gondal Municipality did not take into consideration any other candidature nor did the said Authority examine the suitability of respondent No.5 for being nominated as Member.

3. On the basis of the above factual background, it is the case of the petitioner that the decision of respondent No.4 as at Annexure A dated 8.4.2005 is illegal, unlawful and arbitrary and the consequent notification nominating respondent No.5 as Member of the Market Committee issued by the Director dated 21.4.2005 produced at Annexure B to the petition is also illegal.

4. Before recording and dealing with the rival submissions, certain developments which have taken place during the pendency of the petition need to be noted. By an order dated 13th May 2005, passed by a learned single Judge of this Court in the present

petition, while modifying the ad-interim relief granted earlier, it was provided that respondent No.5 may be allowed to participate in the meeting which is scheduled on 15.5.2005 (for electing the Chairman of the Market Committee) but his vote shall be separately counted and in the event of difference of more than one vote, it would be open to the Election Officer to proceed for declaration of the resolution. However, if the difference is of one vote only, the result so declared shall be subject to further orders which may be passed by this Court in the petition. It may be noted that eventually, the election for the post of Chairman took place on 15.5.2005. It is not in dispute that respondent No.7 herein received 6 votes and his rival candidate one Shri Chandubhai Vagasia received 7 votes. This situation, therefore, gave rise to the dispute between the parties with respect to the true interpretation of the interim orders passed by this Court on 13.5.2005. Civil Application No.5275 of 2005 came to be filed by the petitioner seeking directions for excluding the vote of respondent No.5 from counting for the election of the Chairman. This Civil Application has remained pending and no order has been passed thereon when the learned advocates appearing

for the parties had shown inclination to proceed with the final hearing of the main petition. Accordingly, without going into the question of implementation of the interim order passed by this Court on 13.5.2005, I have heard the petition at length for final disposal.

5. It also needs to be noted that the nomination of respondent No.5 as Member of the Agricultural Produce Market Committee, Gondal was upto the term of the Administrator of the Gondal Nagarpalika or upto the term of the Market Committee whichever is earlier. It is not in dispute that presently, Gondal Nagarpalika is being managed by the elected body of councillors and the appointment of the Administrator has come to an end. It would thus emerge that presently respondent No.5 no longer enjoys his nomination as Member of the Market Committee. His appointment has exhausted itself. The challenge to the notification by which he was nominated, however, retains its significance with respect to the vote cast by him in the election of Chairman of the Market Committee. It is to resolve this legal deadlock that this Court shall have to go into the legality of his nomination.

6. Learned advocate Ms.Avani Mehta appearing for the petitioner has strenuously urged that the impugned

orders at Annexure A & B are illegal, unlawful and require to be quashed and set aside. She submitted that the petitioner was interested in getting himself nominated as Member of the Agricultural Produce Market Committee; that besides the petitioner there were several other persons with sound credentials who were also willing to be so nominated and without considering any other cases and without calling for the interested persons to show their willingness, the Administrator could not have nominated respondent No.5.

7.1It is further contended that respondent No.2, Hon'ble Minister had asked respondent No.4 to nominate respondent No.5 as Member of the Market Committee. It is her case that respondent No.2 could not have interfered with the process of nomination which was primarily the duty and responsibility of respondent No.4.

7.2It is further contended that the entire exercise was engineered politically to enhance the chances of respondent No.7 to get re-elected as the Chairman of the Market Committee. It is submitted that right from the stage where the election to the post of Chairman was scheduled and thereafter cancelled till the stage of nomination of respondent No.5 and holding of

election to the post of Chairman would demonstrate that the entire exercise was illegal and malafide. It was further contended that respondent No.4 did not take into consideration any relevant factors while nominating respondent No.5 as the Member of the Market Committee. It was contended that the decision of respondent No.4 was wholly arbitrary. It was also contended that name of respondent No.5 appears in two different voters list and therefore also his name could not have been considered for nomination as Member of the Market Committee.

8. Appearing for the State Government and the Director of Agricultural Marketing and Rural Finance, Ms. Sangita Vishen submitted that respondent No.3 committed no error in issuing the notification as per the provisions of the said Act and the Rules made thereunder and that therefore no illegality can be attached to the notification issued by respondent No.3. She submitted that the State Government has not played any role in this regard.

9. Appearing for the Administrator, respondent No.4, learned advocate Shri Premal Joshi strenuously urged before me that the decision of the Administrator was just and proper. It was contended that the

Administrator did not blindly accept the recommendations made by the Hon'ble Minister and only upon verification that respondent No.5 fulfills necessary qualifications that it was decided to nominate him. It was contended that respondent No.4 committed no error in following the recommendation especially when it was found that respondent No.5 was not disqualified from being nominated. It was further urged that respondent No.4 has the power to nominate a Member to the Market Committee and such nomination must be left to the free choice of the Administrator. It was contended that respondent No.5 was not appointed to a public post and the concept of service of law and selection for appointment to a civil post cannot be imported in the present case.

10. Learned advocate Shri B.S.Patel appearing for respondent No.5 submitted that the appointment was proper and legal; that respondent No.5 possesses necessary qualifications and was active in cooperative movement; he is also an agriculturist and therefore rightly selected for nomination. He submitted that there was nothing wrong in the Hon'ble Minister recommending his name for nomination. It was further contended that merely because the name of respondent

No.5 appears at two different places in the voters list would not mean that respondent No.5 is disqualified from being nominated. It was also contended that the petitioner does not have the credentials to be nominated as a Member of the Market Committee and at his instance therefore no writ should be issued.

11.Before examining the rival contentions, a few statutory provisions need to be noted. To consolidate and amend the law relating to regulation of buying and selling of agricultural produce and the establishment of markets for agricultural produce in the State of Gujarat, the said Act was enacted. Section 11 of the said Act provides for constitution of market committee. Sub-section (1) of section 11 provides for the members who will constitute the market committee and states that the market committee shall consist of (i) eight agriculturists who shall be elected by members of managing committees of co-operative societies dispensing agricultural credit in the market area; (ii) four members to be elected in the prescribed manner from amongst themselves by the traders holding general licences; (iii) two representatives of the co-operative marketing societies situate in the market

area and holding general licences to be elected from amongst the members; (iv) one member to be mentioned by the local authority within whose jurisdiction the principal market yard is situated from amongst its councillors, or as the case may be, members who do not hold any general licence and in case the members have vacated office, and administrator has been appointed to exercise power and perform functions of the local authority, such person as may be nominated by the administrator; (v) two members to be nominated by the State Government. Sub-section (1) of section 11 reads as follows:

> " 11. Constitution of market committee. (1) Every market committee shall consist of the following members, namely:-
>
> (i) eight agriculturists who shall be elected by members of managing committees of co-operative societies (other than co-operative marketing societies) dispensing agricultural credit in the market area;
>
> ii) four members to be elected in the prescribed manner from amongst themselves by the traders holding general licences;
>
> (iii) two representatives of the co-operative marketing societies situate in the market area and holding general licences to be elected from amongst the members (other than nominal, associate or sympathiser members) of such societies by the members of the managing committees of such societies;
>
> Provided that where the number of co-operative marketing societies so situate does not exceed

two, only one representative shall be so elected;

(iv) one member to be mentioned by the local authority (other than the market committee) within whose jurisdiction the principal market yard is situated from amongst its councillors, or as the case may be, members who do not hold any general licence:

Provided that where under the law applicable to the local authority its councillors or members have have vacated office and any person or administrator has been appointed to exercise power and perform the functions of the local authority, such person or, as the case may be, administrator shall nominate a member under this paragraph from amongst persons qualified to be councillors or members councillors or members of the local authority and not holding a general licence;

(v)two members to be nominated by the State Government:

Provided that when a market committee is constituted for the first time all the members thereof shall be persons nominated by the State Government and shall hold office for a period of two years from the date of their nomination;”

Rule 27 of the Gujarat Agricultural Produce Markets Rules (hereinafter to be referred to as the said Rules) provides for publication of the names of elected and nominated members of the market committee. Rule 27 reads as follows:

“27. Publication of the names of elected and nominated members of the Market Committee. The names of the elected and nominated members of the market committee shall be published in the Official Gazette by the Director as soon as conveniently may be after

their election and nomination."

12. It can thus be seen that the Agricultural Produce Market Committee is to be constituted as provided under section 11 of the said Act. The market committee comprises of elected and nominated members. Clause (iv) of sub-section (1) of section 11 provides for nomination of one member by the local authority within whose jurisdiction the principal market yard is situated from amongst the councillors or as the case may be, members who do not hold any general licence. It is only in a case where such local authority is not constituted and councillors or members have vacated the office and a person has been appointed as administrator to exercise the powers and perform the functions of the local authority that such an administrator is empowered to nominate a member under the said sub-rule from amongst persons qualified to be councillors or members of the local authority and not holding a general licence. Ordinarily, therefore, when the local authority is constituted within whose jurisdiction the principal market yard is situated, one member is to be nominated under clause (iv) of sub-section (1) of section 11 of the said Act from amongst its councillors or as the case may be members who do not hold any

general licence. When an elected local authority is therefore in power, the local authority has to select one out of its councillors to be nominated as member of the market committee. This automatically ensures that the person to be nominated represents the wish of the entire constituency. Firstly, he himself is an elected councillor of the local authority and secondly the local authority recommends his nomination as a member of the market committee. It is only in a case where councillors or members have vacated the office and administrator is appointed to exercise the powers and perform the functions of the local authority that the administrator gets the powers to make nomination from amongst persons qualified to be councillors or members of the local authority and not holding a general licence. Insofar as the qualification is concerned, therefore the only requirement is that the person sought to be nominated by the administrator should be qualified to be a councillor or a member of the local authority and that he should not be holding a general licence. This, however, does not mean that the administrator can take an arbitrary decision and nominate any person without there being his satisfaction about the credentials of such a person to

be nominated. Though I am unable to agree with the suggestion of the learned advocate for the petitioner that the administrator should have called for interested persons to apply for being considered for nomination since this is not a public employment and the nomination to be made by the administrator cannot be confused with the appointment to a public post, it is not possible to accept the contention of the learned advocates for the respondents that the administrator had an absolute free choice to select any person for nomination as long as he fulfills the qualification. The purpose of nomination appears to be to represent the local authority. Ordinarily when the local authority is being managed by a duly constituted elected body, the local authority would nominate a person from one amongst the councillors. This as noted above, will automatically take care of the democratic process and will ensure that the person nominated represents the wish of the entire constituency. It is only in a case where for some reason the elected body is not in power and that administrator is appointed to discharge functions and duties of the local authority that the administrator gets power to make a nomination. Considered from this angle, it would be manifest that

the administrator owes a duty to take a considered decision as to the person who is to be nominated as member of the market committee. Such a decision cannot be arbitrary and without any reasons. Any decision of the administrator which is not visited by reason would be an arbitrary decision and would render such a decision illegal.

13. In the present case, it can be seen that the term of the outgoing Chairman and Vice-Chairman of the market committee expired on 17.2.2005. The authority was required to hold a fresh election for electing the Chairman and Vice-Chairman of the Committee as early as possible. In fact, the election was scheduled to be held on 4th March, 2005. The said meeting was, however, cancelled stating that the concerned authority had a meeting with the learned Advocate General in connection with some litigation. In the meantime, the term of the elected body of the local authority i.e. Gondal Municipality came to an end. With that, the nomination of the member nominated by the local authority also came to an end. No newly elected body of Gondal Municipality was installed immediately upon completion of the term of the outgoing Municipality. Administrator was, therefore, appointed to discharge the functions

and to carry out the duties of the Municipality. Election agenda was published on 19.4.2005 for holding the election of the Chairman of the Market Committee. The date fixed for holding the election was 29.4.2005.

14.I have perused the original file of the Administration and have also permitted learned advocates to have access to the same. From the perusal of the file of the Administrator which led to the ultimate decision to nominate respondent No.5 as a Member of the Market Committee, it would appear that on 7th April 2005, Secretary to respondent No.2, Hon'ble Minister wrote a letter to the Administrator, respondent No.4 herein in which it was stated that Shri Kishorebhai Chhaganbhai Andipara i.e. Respondent No.5 herein has represented for his nomination to the Market Committee. By the said letter, the Administrator was requested to undertake the procedure in accordance with law after verifying the details. Contents of the said letter are as follows:

> “Urgent.
>
> Representation has been received by the Hon'ble Minister for nominating Shri Kishorebhai Chhaganbhai Andipara as a member of the Gondal Agricultural Produce Market Committee as representative of Gondal Nagarpalika.
>
> After verifying the details, procedure as per Rules be undertaken.”

14.1 On 8th April 2005, respondent No.5 wrote a letter to respondent No.4 requesting that he may be nominated as a member of the market committee. On 8th April 2005 itself, the Administrator passed resolution in which it has been recorded that nomination of the earlier member of the Committee representing the local authority has come to an end on 25.2.2005; that respondent No.5 has requested that he may be nominated on the said place; that the Hon'ble Minister, respondent No.2 herein, has asked to undertake the procedure in accordance with the rules for such nomination and therefore finding that the request of the applicant is justified, in exercise of powers under section 11(1)(iv) of the said Act, it is resolved to nominate said Shri Kishorbhai Chhaganbhai Andipara as a member of the Market Committee. On the very same day, communication was also sent by the Administrator to the District Registrar to this effect. Eventually, the Director, i.e. Respondent No.3 herein, issued notification as desired by the Administrator.

15. In the affidavit-in-reply filed by the administrator, some candid statements have been made. With respect to the allegation that his choice of the respondent No.5

for nomination was solely on the basis of the recommendation from the Minister, this is what is stated:

> "9. It is true that my office received a letter dated 07/04/2005 from the office of the Honourable Minister, Agriculture, Co-operation, Animal Husbandry, Panchayat and Housing Department, whereby he informed to verify the details and to take action in accordance with laws.
>
> I state and submit that it is not true that the office of the Honourable Minister for Agriculture and Co-operation forwarded the application of Shri Andipara. My office received only a letter from the office of the Honourable Minister, Agriculture and Co-operation without any application. On the contrary the office of the Honourable Minister has informed my office to verify the details and to take action in accordance with law.
>
> 10.I state and submit that on 08/04/2005 my office received an application from Shri Kishorebhai Chhaganbhai Andipara alongwith Voter's Identity Card Slip and Ration Card. After receipt of the same, my office verified the genuineness of the same. The name of Shri Kishorebhai Chhaganbhai Andipara appears on the voters list of Gondal Assembly Constituency [Part-66/179] at serial no.1582. At this stage I state and submit that my office did not receive any other application except from Shri Andipara. A copy of the voters list is annexed herewith and marked as Annexure II.
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> 11. I therefore state and submit that before passing impugned resolution appointing Shri Kishorebhai Chhaganbhai Andipara as Member of Gondal Nagarpalika in Agricultural Produce Market committee, Gondal, all the documents produced by him were verified. I further state and submit that my office did not receive any other application from any person from the Municipality except from Shri Kishorebhai Chhaganbhai Andipara.
>
> 12. I state and submit that as per the provision

> of Sec.11(1)(iv) being an Administrator I nominated Shri Andipara as a member from amongst persons qualified to be councilors or members of the local authority and not holding a general licence. Further, it is not correct that the impugned resolution suffers from non-application of mind."

16.It can thus be seen that before deciding to nominate respondent No.5 as member of the Market Committee, the Administrator has not taken into account any other aspects of the matter except (i) that his name was recommended by the Hon'ble Minister and (ii) that he was otherwise not disqualified. The second aspect of consideration comes out in the affidavit in reply filed by the Administrator.

17.To my mind, the exercise undertaken by the Administrator is wholly illegal and arbitrary. Firstly, it was a statutory duty of the Administrator to take a decision to nominate a suitable person as member of the market committee. Respondent No.2 could not have issued any directives for nominating a particular person. It is difficult to accept the contention of the learned advocates of the respondents that the Hon'ble Minister only made a recommendation and the Administrator was free to make his own choice. Neither the language used by the Secretary to the

Minister in his communication dated 7th April 2005 nor the resolution passed by the Administrator would justify such an interpretation nor would it be possible to accept that a Government official of the rank of Administrator would not find himself completely bound and obliged to follow the directive of the Minister even if the same is worded as recommendation. In fact, this is precisely what has happened in the present case. The Administrator except verifying whether respondent No.5 fulfills the qualification or not, or to put it in reverse, finding out whether respondent No.5 was disqualified or not, has done nothing further before deciding to nominate him as member of the market committee. The chain of events, as noted above, would also suggest that there was every possibility that selection of respondent No.5 as person to be nominated as member of the Market Committee had political considerations behind it. The election of the Chairman of the Market Committee was delayed. During which time, the term of the elected body of the Gondal Municipality which was the local authority came to an end. With that the term of the nominated member of the local authority also came to an end. It was at the stage when newly elected body of the Gondal Municipality was not

yet installed that the powers of the Administrator were exercised for making nomination of a member to the Market Committee under section 11(1)(iv) of the said Act. Shortly, thereafter, new dates for election to the post of Chairman of the Market Committee were fixed.

18.I am conscious of the fact that when the Legislature has provided for nomination of a member, the same gives certain degree of latitude to the authority selecting the person for such nomination. Considering the provisions of the said Act and in particular, the provisions contained in section 11(1)(iv) of the said Act, however, such a nomination cannot be confused with the nomination of the Chairman of Boards or a public body who holds his office entirely at the pleasure of the Governor. In the present case, the Administrator while nominating a person as member of the market committee is discharging a statutory function. The selection of a person to be so nominated had to be on the basis of some reasons and the exercise had to be informed by logic. Any arbitrary exercise of selection would not fulfill such test. The Administrator has not examined the credentials of respondent No.5 nor has the Administrator even on file come to the conclusion

that for certain reasons respondent No.5 would be a suitable person for being nominated as a representative of the local authority. As noted earlier, ordinarily, nomination under section 11(1)(iv) of the said Act is to be made by the elected body of the Municipality from amongst its councillors. The Legislature has thus provided that the nomination should be made by the elected body from amongst elected members. This in turn would ensure that a person who is found competent by the elected body to represent the constituency gets nominated. It is only in a case where the Municiality is dissolved and an administrator is appointed that the question of nominating a person by the Administrator to represent the constituency crops up. The Administrator, therefore, cannot have unguided and unchannelized powers to arbitrarily pick up any person for nomination. The credentials of the person, his contribution in the field and usefulness as a representative of the constituency to the market committee are some of the relevant considerations which the Administrator is required to look into before taking a decision to nominate a certain person as the member of the committee. In the present case, not only has the Administrator failed in discharge of

the said duties, but he has fully and completely abdicated his powers and allowed himself to be guided by the directives of respondent No.2 for nominating a particular person to the Market committee. Even within the wide degree of discretion, which the Administrator would enjoy while exercising the powers under section 11(1)(iv) of the said Act, such a decision cannot be upheld.

19.I am not convinced by the arguments raised by the learned advocate for the petitioner that respondent No.5 was not qualified for being nominated. Simply because the name of respondent No.5 appears in two different voters list would not automatically disqualify him. The disqualifications are laid down under the Act itself and no further disqualification can be read beyond what is provided in section 14 of the said Act. Even otherwise, it is not unknown that the voters list have many inaccuracies and without the intention on the part of the voter, simply because the name of respondent No.5 figures in two different voters list does not mean that respondent No.5 was instrumental in getting his name listed at two different places. On this count, the contention of the learned advocate for the petitioner is required to be

and is hereby turned down.

20.I am, however, not able to accept the contention of the learned advocate Shri Patel for respondent No.5 that writ at the instance of the petitioner should not be issued. The petitioner is a resident of Gondal town. Besides showing his inclination for being considered for nomination, he has also placed on record material to show that many others were also so inclined. The issues arising in the petition, therefore, cannot be sidelined simply because the petitioner has himself not produced any further material regarding his own credentials for being nominated. I do not find that the petitioner has no locus standi to challenge the nomination of respondent No.5.

21.In view of the above discussion and conclusion, I find that the impugned orders are required to be quashed and set aside. In my view, the Administrator erred in nominating respondent No.5 as a member of the market committee which decision was wholly arbitrary and illegal and the same is hereby set aside. Consequently, the notification at Annexure B by which the Director notified the nomination of respondent No.5 as member of the Agricultural Produce Market Committee also stands

quashed. The petition is accordingly allowed. Rule is made absolute accordingly with no order as to costs.

22.As noted earlier, by order dated 13.5.2005 the respondent No.5 was allowed to vote for the election to the post of Chairman of the Market Committee subject to further orders that may be passed in this petition. Now that the petition stands allowed and the nomination of respondent No.5 stands quashed, election authorities will proceed further to finalise the election of the Chairman of the Agricultural Produce Market Committee, Gondal on the basis of the remaining valid votes. Quashing of the nomination of respondent No.5, however, will not have any other effect and no other proceedings of the Market Committee shall be invalidated solely on account of such quashing.

23.In view of the above order passed in the main matter, both the Civil Applications are disposed of.

(Akil Kureshi, J.)

(vjn)